

EX-IM BANK OPERATING AND FINANCING LEASE INSURANCE

SUMMARY

Companies leasing products of U.S. origin outside the United States can reduce their risks by insuring the stream of lease payments and the fair market value of the leased products through Ex-Im Bank's lease insurance policies. The coverage protects against credit risks, both political and commercial. Coverage is available for a cross-border lease (a lease in which the lessor and lessee are in two different countries) or an international lease (a lease in which both the lessor and lessee are in the same country, other than the United States).

Ex-Im Bank offers two export credit insurance policies for the leasing industry: an Operating Lease Policy and a Financing Lease Policy. Each provides a unique system of coverage described below. The choice of the Operating Lease Policy or Financing Lease Policy is based upon an evaluation of which coverage structure fits the specific transaction.

ELIGIBLE LESSORS

An eligible lessor is any leasing company, manufacturer, bank, trust, partnership or other entity, foreign or domestic, that leases or participates in the financing of leases of U.S.- manufactured equipment and services outside the United States.

ELIGIBLE LEASE TRANSACTIONS

- Lease coverage can apply to new or used equipment and related services.
- Generally, no more than 15 percent of the value of the leased products, exclusive of price mark-up, may consist of labor, raw materials, component parts, or any combination thereof, originating or manufactured outside the United States. Any foreign content in the leased products must be specifically approved by Ex-Im Bank.
- The transaction must be subject to a lease agreement between the lessee and lessor, which is valid and enforceable in the United States and the lessee's country at the time the policy becomes effective.
- All transactions which have residual value greater than or equal to 25 percent full value of the leased products must use the Operating Lease Policy.

OPERATING LEASE POLICY

Ex-Im Bank's coverage for operating leases was designed around a general lease transaction concept in which:

- payments total less than full value of leased products;
- there is no intention on the part of the lessor to transfer title to the leased product to the lessee at the end of the lease period;

- the lessor keeps the risk that the leased products will decline in market value at a greater rate than expected.

The **Operating Lease Policy** divides coverage into two parts which may be purchased together or separately:

- 1) **Coverage for Stream of Payments:** The policy provides coverage for the stream of payments falling due during a repossession-efforts period after default of the lessee. This part of the overall coverage is intended to maintain the insured's stream of payments while action is taken to repossess the leased products. Although the length of the repossession-efforts period is underwritten on a case-by-case basis, it will generally extend to cover those periodic and non-periodic payments which fall due for up to five months after default.

Under the lease, periodic payments, representing the rental portion of the lease, must be due from the lessee to the insured at regular intervals. The amounts of such payments may, however, be unequal. Periodic payments can be insured at face amount whether or not that amount includes imputed interest, profit or any other component.

The non-periodic payment concept is intended to include those payments which are obligations of the lessee under lease contingencies. Such obligations might include service or maintenance payments payable by the lessee to the insured lessor. Coverage of non-periodic payments will be specifically underwritten by Ex-Im Bank and a credit limit will be entered for each approved non-periodic payment.

Coverage for the stream of payments is provided at a maximum of 100 percent for sovereign lessees and 90 percent for all others.

- 2) **Coverage Against Governmental Prevention of Repossession (GPR):** As a second part of coverage, Ex-Im Bank will insure the political risk of prevention of repossession of the leased products due to specific government actions, including, but not limited to, expropriation, confiscation and cancellation of export license. This coverage, usually provided at 100 percent for all lessee types, comes into effect only after the end of the repossession-efforts period. It is limited to the fair market value of the leased products at the time of claim.
- Under risks on the stream of payments, Ex-Im Bank's maximum claim payment would be the insured percentage of the loss up to the actual amount of the limited number of periodic and non-periodic payments specified in the policy declarations.
 - Under GPR, the lessor may purchase insurance up to the Ex-Im Bank-approved credit limit to cover the value of leased products should governmental intervention, as set forth in the policy, prevent repossession. The claim payment would be the insured percentage of the fair market value at the time of claim, limited by the credit limit coverage purchased. Prior to policy issuance, the lessor must make the final decision on the credit limit, taking into consideration whatever factors are deemed appropriate, including the possibility of default and prevention of repossession occurring very early in the life of the lease.

FINANCING LEASE POLICY

This policy was designed around a lease concept in which there is generally little residual value remaining in the leased products and ownership is transferred to the lessee at the end of the lease. Ex-Im Bank views the structure as similar to a medium-term sale transaction and requires a 15 percent advance payment from the lessee to the lessor on or before delivery of the leased products. Ex-Im Bank will insure the remaining 85 percent of the lease transaction. The advance payment may be financed.

Installments may be based on equal principal amounts plus accrued interest or level (mortgage style) payments. Unusual payment structures, such as bullet payments, are not allowed. Maximum repayment terms are based on Ex-Im Bank's medium-term guidelines for contract values.

Should the lessee default, coverage is provided for 100 percent of each lease payment as it falls due until the end of the lease term. Accrued regular interest and post-default interest coverage is provided on the outstanding principal balance, subject to duration limitations specified in the policy declarations.

RISK RETAINED BY THE INSURED

There is no first-loss deductible requirement in the policies.

POLICY ISSUANCE

Both the Operating Lease and Financing Lease policies cover single transactions. A separate policy is issued for each lease insured with Ex-Im Bank. Upon review and approval of an application, Ex-Im Bank will issue a commitment notice for 90 days, reflecting coverage parameters, including credit limits and premium due, for the specific lease transaction. The policy is issued if the premium is paid in full prior to the expiration of the commitment notice.

Both policies require that the lease documentation set forth certain obligations. Refer to the Instructions and Application for Lease Insurance Form EIB-92-45.

CLAIMS AND PAYMENTS

Under the **Operating Lease Policy**:

- Stream-of-payments claims for risks other than GPR may be filed no earlier than the date the leased products are repossessed or the end of the repossession-efforts period, and no later than 120 days after this period.
- GPR claims may be filed no earlier than the end of the repossession-efforts period and no later than 120 days after this period.

Under the **Financing Lease Policy**:

- Claims may be filed from 90 to 240 days after default.

Under both policies, the insured is obligated to transfer the lessee's lease obligations to Ex-Im Bank at time of claim payment. It is also obligated to transfer title to the leased products to Ex-Im Bank for claims paid under GPR for the Operating Lease Policy or any Financing Lease Policy claim. Ex-Im

Bank pays properly submitted and documented lease policy claims within 60 days of receipt.

RISK-BASED PREMIUM RATES

A risk-based pricing system is used which adheres to the Organization of Economic Cooperation and Development Premia Agreement. The premium rate reflects the major risk elements of each lease and is determined by the length of the lease, the country involved and the type of lessee (sovereign, nonsovereign public sector, or private sector).

Under the Operating Lease Policy, premium is payable per \$100 of:

- the specified stream-of-payments coverage credit limit;
- the fair market value liability limit specified in the policy for GPR coverage.

Under the Financing Lease Policy, premium is payable per \$100 of:

- the specified stream-of-payments coverage credit limit (representing principal only).

Due to the different structures of the policies, premium for a single transaction could vary greatly, depending upon the Policy chosen.

Lessors or their insurance brokers may obtain a non-binding rate indication on Ex-Im Bank's Web site under the fee advice calculator, or by contacting the Business Development Division with specifics of the transaction. Changing conditions may result in a different rate than is initially indicated.

ASSIGNMENT OF PROCEEDS

Subject to Ex-Im Bank approval, policy proceeds may be assigned to a commercial bank or other lender. Thus, the policyholder can realize greater financial liquidity and flexibility in administering its foreign receivables portfolio.

MORE INFORMATION

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